

# COMMITTEE ON COMMERCE

***Representative Michele Reagan, Chairman***  
***Representative John McComish, Vice-Chairman***  
***Diana Clay O'Dell, Legislative Research Analyst***



\* Strike-everything Amendment  
[E] Emergency Clause  
[P 108] Proposition 108 Clause

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**HB 2041 – Chapter 15 – industrial commission; continuation**

Continues the Industrial Commission of Arizona and its five subordinate advisory/review boards an additional 10 years.

**HB 2042 – Chapter 43 – board of technical registration; continuation**

Continues the Arizona Board of Technical Registration for a period of 10 years.

**HB 2043 – Chapter 59 – Arizona power authority; continuation**

Continues the Arizona Power Authority for an additional 10 years.

**HB 2096 – Chapter 8 – weights and measures; reference standards**

Modifies a reference in the Department of Weights and Measures statutes to conform to national standards.

**HB 2273 – Chapter 320 – corporations and LLC omnibus**

Effective January 1, 2007, amends the statutes of the Arizona Corporation Commission (ACC).

- Limits the use of service terms. Conforms both Title 10 (Corporations and Associations) and Title 29 (Partnerships) of the Arizona Revised Statutes.
- Rewrites the sections of law pertaining to the authority and duties of the statutory agent.
- Conforms and reconciles statutory language with regard to corporate names and prepaid monies for filings and services.
- Increases the penalty to a Class 4 Felony for any person who knowingly files false documents, or fails to answer interrogatories issued by the ACC.
- Permits certain pertinent documents to be re-submitted within 30 days of rejection and limits the use of Articles of Correction only for documents already filed.
- Establishes a withdrawal mechanism for foreign corporations and foreign nonprofit corporations that have not yet issued shares or transacted business in Arizona.
- Revises the date requirements for renewals, and eliminates certain other filing requirements.

**HB 2277 – Chapter 93 – recreational vehicle parks; long-term rentals**

Requires a current copy of the *Arizona Recreational Vehicle Long-Term Space Act* to be available for existing tenants, and given to new tenants before they enter into a lease agreement.

**HB 2327 – Chapter 94 – corporations; shares without certificates**

Eliminates the requirement for a corporation to issue a physical certificate for shares.

**HB 2374 – Chapter 190 – \*dental hygienist; practice without license**

Increases the penalty for practicing dental hygiene without a license to a Class 1 misdemeanor.

**HB 2442 – Chapter 139 – transportation of human remains**

Requires human remains to be shipped in a suitable container.

**HB 2443 – Chapter 13 – \*beneficiary deeds; predeceased grantee beneficiaries**

Requires the owner of real property to provide additional information relating to the *Beneficiary Deed* when the beneficiary becomes deceased before the owner of the property.

**HB 2484 – Chapter 208 – \*personal identifying information records; disposal**

Creates disposal and record discard requirements for businesses and government.

**HB 2509 – Chapter 335 – \*Arizona welcome center; Yuma; appropriation**

Appropriates \$2 million from the State General Fund in FY 2006-07 to the Office of Tourism for distribution to the City of Yuma to establish an Arizona Welcome Center. Conditions the appropriation on the Office of Tourism informing the Joint Legislative Budget Committee that plans have been delivered to the City of Yuma and the city has received ownership of the property. Restricts the city's planning and design to a maximum \$500,000 of the appropriation.

**HB 2585 – Chapter 274 – \*contractors; appliance exemption; licensure**

Increases the handyman's exemption to \$1,000, excluding manufacturers' unaltered electrical fixtures and appliances that can be plugged into a two or three-pronged household electrical outlet.

**HB 2621 – Chapter 383 – \*illegal liquor sales; liability**

Establishes a modified restaurant license for businesses that fail a Department of Liquor Licenses and Control (DLLC) audit, have between 30 and 40 percent food sales, and receive approval from DLLC to continue operating. Limits approval to 15 modified licenses in the next two fiscal years.

- Appropriates \$450,000 from the State General Fund in FY 2006-07 to DLLC to hire three investigators and two auditors.
- Outlines the specific mandates for the restaurant premises, required public input and audits.
- Between July 1, 2006 and December 31, 2008, permits the transfer of bar, beer and wine bar and liquor store licenses from counties with 500,000 persons or more to those with less.
- Requires DLLC to report to the Governor and Legislature by November 1, 2007 regarding the impact of the provisions of the bill.

**HB 2754 – Chapter 142 – security guards; private investigators; reciprocity**

Amends statutes to permit reciprocity agreements between the Department of Public Safety (DPS) and another state. Outlines requirements for both private investigators and security guards.

- Prescribes that the director of DPS may conduct periodic criminal history record checks to update licensing and registration status.
- Adds two members to the hearing board and allows the director to extend a member's term up to six months or until a qualified replacement is found.
- Exempts the Arizona Rangers from the provisions of the bill.

**HB 2779 – Chapter 384 – \*disclosure; hazards; property**

Creates a hazard disclosure report relating to real property, based on government maps and other information as outlined. The report may be provided to a buyer directly by the seller, or through an authorized third party.

- Exempts property that requires a public report.
- Outlines specific hazards that must be included in the report.
- Mandates a minimum \$10 million insurance for a third party provider.

- Denotes liability for failure to disclose pertinent information, as well as immunity from liability when there is no actual knowledge of an error, inaccuracy or omission in the disclosure of information.
- Permits a third party provider of information to agree by contract to indemnify a person to a greater extent than is required by the provisions.

#### **HB 2780 – Chapter 291 – board of behavioral health examiners**

Makes changes to the statutes that govern the Board of Behavioral Health Examiners and the related field of practice.

- Authorizes the Credentialing Committee to dismiss complaints if they are without merit. Prohibits dismissed complaints from being disclosed as unprofessional conduct or noted against the licensee's complaint history.
- Outlines information that must be released to the public when an investigation is ongoing.
- Redefines and describes the confidential nature of the licensee/client relationship.
- Requires the Board to either issue or deny a license within 180 days of an applicant's submission of a complete application.
- Requires the Board to consider an applicant's education, supervised work experience and clinical supervision equivalencies in determining reciprocity.
- Establishes a committee to recommend specific experience necessary to satisfy the requirements for licensed clinical social workers. Directs the committee to make recommendation to the Board by March 31, 2007, make a copy of the recommendations available to the public upon request, and post the document on the Board's website.

#### **HB 2785 – Chapter 260 – telephone records; unauthorized sale prohibited**

Prohibits any person from obtaining, selling, attempting to sell, or receiving telephone records of any Arizona resident without the person's authorization.

- Directs telecommunications companies maintaining telephone records to establish reasonable procedures to protect the consumer against such unauthorized or fraudulent disclosure.
- Stipulates that a violation is an unlawful act pursuant to the Consumer Fraud Act, and authorizes the attorney general to investigate and take action.
- Designates a two-year limitation for filing a civil action and stipulates relief.
- Prescribes a violation as a Class 1 misdemeanor and subjects the violator to forfeiture of any personal property used or intended to be used to commit the offense.

#### **HB 2786 – Chapter 236 – medical records; health professionals**

Requires a health professional to prepare a written protocol for the secure storage and transfer of patient medical records in the event the health professional terminates or sells the practice and medical records will not remain in the same physical location. Outlines specific requirements.

#### **SB 1024 – Chapter 27 – computer software agreements; ADOT**

Allows the Arizona Department of Transportation to share pertinent computer programs with out-of-state agencies and political subdivisions.

**SB 1066 – Chapter 278 – \*cigarette sales; licensing; luxury tax**

Provides new licensing guidelines for cigarette manufacturers, importers, and distributors; creates new civil and criminal penalties relating to the use or possession of unstamped, or unlawfully stamped cigarettes; specifies when cigarettes are either tax-exempt or are not required to be stamped; and changes the requirements for licensed distributors of tobacco products.

- Forfeits to the state all cigarettes seized due to statutory violations. Authorizes a hearing process. Outlines requirements for destruction of the cigarettes.
- Exempts cigarettes seized by the Department of Revenue (DOR) due to improper stamping or having unpaid taxes from being sold.
- Mandates that if a cigarette distributor defrauds the state by knowingly and intentionally failing to keep proper records, refusing to pay luxury taxes or attempting to defeat the luxury tax, the distributor forfeits all fixtures, equipment and all other material and personal property located on the distributor's premises to the state. In lieu, the department may seek action against the distributor by the attorney general or a county attorney.
- Clarifies and outlines requirements related to payment of luxury tax and specifies penalties. In addition to current penalties, imposes civil penalties for cigarette manufacturers, importers or distributors who knowingly and intentionally sell or possess cigarettes with false labels, counterfeit tax stamps or who obtain cigarettes through the use of a counterfeit license.
- Stipulates that official tax stamps do not need to be purchased if a registered individual follows certain specified procedures. Outlines requirements including itemized reports.
- Requires wholesalers, distributors or retailers to make their records regarding luxuries available for inspection by DOR at all times. Details specifics.
- Requires individuals who acquire or possess unstamped cigarettes solely for their own use or consumption to register with DOR in order to remit the proper taxes.
- Details the authority of DOR to deny or revoke a license as outlined.
- Requires DOR to publish and update the names of those issued cigarette manufacturer, importer, or distributor licenses on its web site.
- Repeals the provision of law that requires cigarettes from out-of-state to have the necessary tax stamp affixed within 48 hours of receipt by the licensed distributor.
- Requires record retention for a period of four years after the date of the transaction. Authorizes DOR to share the pertinent records and reports with other law enforcement officials of federal and state governments under conditions that assume the confidentiality of taxpayer information.
- Provides an effective date and taxable period applicability date of October 1, 2006 for specified sections of the act.
- Provides a delayed conditional effective date for specified sections of the Act the later of: July 1, 2007; or, the date when the director of DOR notifies Legislative Council when the tax stamp for registered individuals is made available.

**SB 1138 – Chapter 81 – condominiums; real property conveyance**

Provides a process whereby a Condominium association may convey real property assets.

**SB 1188 – Chapter 255 – bail bond agent prohibition**

Authorizes a convicted felon to qualify as a bail bond agent if the felony conviction has been set aside or the person's civil rights have been restored except: a conviction of theft; or, a conviction of any crime involving possessing or carrying a deadly weapon. Retroactive to May 1, 2006.

**SB 1219 – Chapter 183 – person identifying information; recorded documents**

Effective January 1, 2007, limits the use of certain identifying and financial information recorded on a public website.

- Stipulates that recorded documents and records on a public website must not contain more than five of an individual's social security numbers. Prohibits the documents/records from containing the following personal identifying information: credit, charge or debit card numbers; retirement account numbers; savings, checking or securities entitlement account numbers.
- Permits only the attorney general, county attorney, or both individuals, to file a legal action for a violation of the provisions of this bill.
- Assesses a \$500 civil penalty for violations of the provisions, except as outlined. Exempts a county agency from civil liability for any action relating to recorded information.

**SB 1221 – Chapter 263 – structural pest control; licensure exemption**

Exempts from licensure by the Structural Pest Control Commission, persons who provide lawn or garden care, shrub/tree maintenance, or who apply herbicide for weed control. Imposes penalties for violations.

- Excludes individuals who: use application equipment that holds more than eight gallons of liquid herbicide; use more than 25 pounds of a nonliquid herbicide; or, do not follow label directions.
- Requires treatment records be provided to customers and outlines specifics.

**SB 1222 – Chapter 86 – professional employer organizations; registration**

Requires the Registration Statement to include whether a person has been convicted of a felony relative to the Professional Employer Organization industry.

- Requires disclosure for the preceding 10 years for felony convictions for crimes involving accounting or tax violations, dishonesty, fraud, embezzlement, theft, forgery or perjury.
- Directs the Secretary of State to deny the application of any management-level person convicted of a felony as outlined.
- Lengthens the allocated time for a registrant to file a renewal to 180 days.

**SB 1250 – Chapter 53 – uniform commercial code; amendments**

Makes changes to the Uniform Commercial Code (UCC) by repealing, then re-writing and updating, modifying and clarifying statutes.

- Directs the UCC to be liberally construed to promote its purposes, provide uniformity and modernize the laws regulating commercial transactions. Contains a severability clause stating that if any provision is found to be invalid, that invalidity does not affect the remainder of the UCC.
- States the UCC supersedes the Federal Electronic Signatures in the Global and National Commerce Act, except as noted. Amends and removes pertinent definitions.
- Clarifies payment requirements and differentiates between a tangible document and an electronic document of title. Clarifies delivery and makes numerous changes and additions to the statutes regarding the manner of the delivery of goods, the shipment, receipt of possession or control of the document.

- Modifies, clarifies and updates the statutory language relating to liability for nonreceipt or misdescription as well as the duty of care requirements. Designates the purchaser as a *good faith* purchaser with regard to an altered warehouse receipt.
- Stipulates the warehouse lien or security interest is not effective against a person who had a legal interest or perfected security interest in the goods but did not deliver actual authority: to ship, store or sell; or deliver power to obtain delivery. Clarifies the effectiveness of the lien against all persons as outlined, and defines *household goods*.
- With regard to a warehouse lien on goods, eliminates the requirement to provide notification in person, or by registered or certified letter to the last known address of any person to be notified. Instead requires all persons known to claim an interest in the goods to be notified.
- Clarifies the *issuer* is an *issuer of a bill of lading* with regard to goods that are loaded for shipment. Differentiates between a *tangible* bill and an *electronic* bill.
- Specifies the rules that apply to a negotiable electronic document of title.
- Stipulates that in the case of a transfer of a non-negotiable document of title, the rights of the transferee may be defeated by a lessee from the transferor in ordinary course of business if the bailee has delivered the goods to the lessee or received notification of the lessees' rights.
- Makes the chapter applicable to a document of title issued or a bailment that arises on or after the effective date of the chapter. Contains a saving clause. Clarifies when a document of title is a financial asset.
- Outlines requirements if a secured party has control of an electronic document. Conforms statutes by providing reference to *tangible documents*, *electronic documents* and *control*.

#### **SB 1276 – Chapter 310 – wine shipment; limited production winery**

Redefines Domestic Farm Winery (Winery) and allows a consumer to directly purchase wine ordered by telephone, mail, fax, catalog or through the Internet. Specific requirements include:

- ⇒ The Winery produces fewer than 20,000 gallons per calendar year.
- ⇒ The purchaser provides verification of legal age, the wine is shipped to a residential or business address, and the shipping container requires an adult's signature and confirmation of delivery.
- ⇒ The wine is solely for personal use, not for resale, and the purchaser could have lawfully carried the wine into the state.
- ⇒ Delivery is made by a person who is at least 21 years of age.
- ⇒ The Winery collects the price of the spirituous liquor at or before the time of delivery and pay all necessary and applicable luxury and transaction privilege tax.
- ⇒ Requires payment of a minimum \$500 surety bond and allows for exceptions as outlined.
- Reduces the maximum gallons a Winery can produce annually to qualify as a Winery from 75,000 gallons to 40,000 gallons and eliminates the requirement for at least 75 percent of the grapes be grown in Arizona.
- Authorizes a Winery that produces less than 20,000 gallons of wine annually to make sales and deliveries of its wine directly to *licensed retailers*.



- Permits a Winery to hold a beer and wine bar, beer and wine store, or a restaurant license as outlined. The Winery must purchase all spirituous liquor for sale at other on-sale retail premises from licensed wholesalers, except the winery may purchase wine directly from other wineries that produce less than 20,000 gallons of wine a year and make deliveries of to the winery's licensed retail premises.
- States that an act or omission by any person who makes a sale or delivery of wine for a Winery that is direct shipping to a consumer is an act or omission of the Winery. Further, makes the Winery liable for any violation committed in connection with any sale or delivery of its wine.
- Allows a wine producer to sell wine on its licensed premises.
- States the purpose of the Act is to conform to the requirements of the U.S. Supreme Court decision by adopting non-discriminatory laws that govern the sale and delivery of wine produced by small wineries. Further, the intent is to maintain the three-tier system for regulating the sale and delivery of spirituous liquor, as well as the current revenue collection and law enforcement.
- Contains a severability clause.

**SB 1292 – Chapter 163 – \*single solicitation; construction services**

Allows an agent to procure multiple contracts in a single solicitation for job-order contracting construction services for horizontal construction.

**SB 1322 – Chapter 302 – \*domestic micro-brewery; licensure**

Amends statutes relating to a Domestic Microbrewery by redefining the term to include any brewery in the United States, or its territory or possession that meets the statutory requirements.

- Requires the annual report to the Department of Liquor Licenses and Control to include the amount of beer delivered.
- Outlines beer production limitations as follows: not less than 5,000 gallons in each calendar year following the first year in operation, nor more than 620,000 gallons per calendar year thereafter.
- Limits the amount of beer a Microbrewery may sell to other licensed retailers to 93,000 gallons in any calendar year. Any excess must be purchased from a wholesaler.
- Permits a Domestic Microbrewery to sell and deliver beer to licensees in other states, provided the sale or delivery is also lawful in the other states.
- Allows a domestic microbrewery to sell and deliver beer that it has produced directly to retail licensees that are under common ownership with the microbrewery in any amount.
- Removes the ability for both a domestic farm winery license and a domestic microbrewery license to be issued for a common location. Separates the microbrewery and winery statutes.
- Conforms Department of Revenue statutes for purposes of taxation.

**SB 1364 – Chapter 281 – restocking fees; disclosure**

Effective November 1, 2006, requires businesses to disclose restocking fees. Outlines requirements.

**SB 1367 – Chapter 222 – motion picture production incentives**

Retroactive to January 1, 2006, makes changes to the certification of motion picture production costs and the qualification for motion picture production tax incentives.

**SB 1388 – Chapter 88 – structural pest control; regulation; exemptions**

Stipulates that a utility and its employees are exempt from licensure by Structural Pest Control Commission if pest control services are immediately necessary for an employee's health and safety so the employee may continue working and a qualifying party ensures that employees are properly trained, supervised and equipped.

**SB 1402 – Chapter 185 – sales representative contracts**

Outlines statutory requirements for sales representative contracts and stipulates exclusions.

- Requires the principal and the sales representative to enter into a written contract and mandates inclusion of the terms of payment and computation of the commission. Outlines and clarifies payment of commissions upon termination of the contract.
- Entitles the prevailing party in a court action to collect court costs and reasonable attorney fees.
- Repeals and rewrites the section of law pertaining to wages and commissions.
- Specifies Arizona's jurisdiction when a principal establishes a business relationship with a sales representative to solicit orders for products or services in-state. Voids any waiver or contract provision to the contrary.

**SB 1486 – Chapter 306 – corporation commission; telecommunications arbitration**

Authorizes the Arizona Corporation Commission to administer arbitration procedures to resolve complaints or disputes brought by a consumer against a wireless telecommunications company when the wireless service is a part of bundled services. A telecommunications company is not subject to these arbitration provisions unless there is a written consent agreement by both parties.